

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

## INTRODUCTION

I conducted a hearing on alleged violations of supervised release in this case on June 25, 2009. The defendant appeared pursuant to a summons issued in this case. The United States was represented by Susan Roe, and defendant was represented by Peter Mazzone. Also present was U.S. Probation Officer Jennifer Van Flandern. The proceedings were digitally recorded.

## **CONVICTION AND SENTENCE**

Defendant was sentenced on July 8, 2004 by the Honorable Franklin D. Burgess for attempted sexual abuse of a minor. Defendant received 48 months of imprisonment and 3 years of supervised release. Defendant was released from custody on April 20, 2007, and began his first term of supervised release. On June 6, 2007, the probation office submitted a request for an

**PROPOSED FINDINGS OF FACT AND  
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SUPERVISED RELEASE -1**

1 arrest warrant alleging that defendant had failed to report for drug testing, possessed drug  
2 paraphernalia, consumed alcohol, consumed cocaine, associated with persons engaged in criminal  
3 activity, and had unauthorized contact with minors. On June 27, 2007, Mr. Moses was found  
4 guilty of all allegations except for possession of drug paraphernalia. The court revoked his  
5 supervision and sentenced him to 30 days of custody, followed by three years of supervised  
6 release.

7 On September 11, 2007, the probation office submitted a report requested an arrest warrant  
8 alleging defendant had consumed cocaine and alcohol, and associated with a convicted felon, and  
9 had committed the crime of assault. On September 14, 2007, defendant was arrested for assault  
10 and disorderly conduct. A supplemental report was submitted alleging these violations. On  
11 December 19, 2008, defendant appeared before the court and admitted four of the six alleged  
12 violations. The court sentenced defendant to eight months of custody and two years of supervised  
13 release. Defendant was released from custody on May 9, 2008.

14 On September 25, 2008 the probation office requested a warrant for defendants arrest based  
15 on the allegation that defendant had consumed alcohol and cocaine, committed the crime of  
16 driving while license suspended, committed the crime of negligent driving and assault, and had  
17 failed to report for drug testing. On December 12, 2008, Mr. Moses was sentenced to 68 days of  
18 custody followed by 17 months of supervised release. Mr. Moses was released from custody in  
19 December 23, 2008 to begin his fourth term of supervised release.

20 PRESENTLY ALLEGED VIOLATIONS AND  
21 DEFENDANT'S ADMISSION OF THE VIOLATION

22 In a petition dated June 15, 2009, U.S. Probation Officer Angela McGlynn alleged that  
23 defendant violated the following conditions of supervised release:

PROPOSED FINDINGS OF FACT AND  
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SUPERVISED RELEASE -2

1. Failing to participate in substance abuse treatment as instructed, in violation of the special condition requiring the defendant to participate as instructed in a program approved by the probation officer for the treatment of narcotic addiction, drug dependency, or substance abuse.

2. Consuming alcohol on or before May 9, 2009, in violation of the special condition requiring the defendant to abstain from the use of alcohol and or other intoxicants during the term of supervision.

3. Having contact with minors in violation of the special condition that prohibits the defendant from having direct or indirect contact, with any children under the age of 18, unless accompanied and supervised by an adult, who has been approved in advance by the sexual deviancy therapist and the supervising probation officer.

Defendant admitted all three violations, waived any hearing as to whether they occurred, and was informed the matter would be set for a disposition hearing August 7, 2009 at 10:00 a.m. before District Judge Ricardo S. Martinez. Defendant remains in custody.

## RECOMMENDED FINDINGS AND CONCLUSIONS

Based upon the foregoing, I recommend the court find that defendant has violated the conditions of his supervised release as alleged above, and conduct a disposition hearing.

DATED this 25<sup>th</sup> day of June, 2009.

s/ BRIAN A. TSUCHIDA  
BRIAN A. TSUCHIDA  
United States Magistrate Judge

## **PROPOSED FINDINGS OF FACT AND DETERMINATION AS TO VIOLATIONS OF SUPERVISED RELEASE -3**